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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,488	03/03/2006	Barry Douglas Armour	0074-516912	8707

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DANN, DORFMAN, HERRELL & SKILLMAN
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EXAMINER

LOWE, MICHAEL S

ART UNIT	PAPER NUMBER
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3652

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/531,488	Applicant(s) ARMOUR ET AL.	
	Examiner Michael Scott Lowe	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-26 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "the outwardly extending arms" in line 1. There is insufficient antecedent basis for this limitation in the claim. For sake of examination the limitations are understood to be as shown in the rejections below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11,16-25, are rejected under 35 U.S.C. 102(b) as being anticipated by McIntyre (US 4,318,658).

Re claims 1-11,16-25, McIntyre teaches a truck (generally 14) comprising: a chassis (generally 36,38,43) supporting a cab (generally 16) and that has an initial orientation relative to the ground, wherein the cab is at a forward end of the truck; a automatic foldable/pivotable ramp (generally 22) and a deck (generally 20) which is supported at least partly by a rearmost axle (generally 32) and wheels (generally 19) by

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a suspension arrangement (generally 48), with a forward part of the suspension arrangement operatively connected to the chassis to move with the chassis and a rear part of the suspension arrangement operatively connected to the deck or a deck support frame to move with the deck or deck support frame, wherein the deck is tiltable relative to the chassis about a pivot axis (generally 70,79) that provides a center of rotation of the deck or deck support frame relative to the chassis and that is located in front of the rearmost axle of the truck and arranged such that as the deck tilts rearwardly, the chassis tilts forwardly from the initial orientation and the forward part of the suspension arrangement moves with the chassis such that said forward part of the suspension arrangement moves upwardly toward a part of the deck immediately above the forward part of the suspension arrangement such that a vertical spacing between the forward part of the suspension arrangement and that part of the deck is reduced (figures 5 & 6), and such that a part of the deck immediately above the rearmost axle lowers towards the rearmost axle to provide a low loading angle of the deck.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13,14,23,26 are rejected under 35 U.S.C. 103(a) as being unpatentable over McIntyre (US 4,318,658) in view of Mullican (US 5,887,880).

Re claims 13,26, McIntyre teaches the suspension arrangement includes a pair of spaced apart leaf springs, with the front ends of the leaf springs operatively connected to the chassis, but does not teach the rear ends of the leaf springs operatively connected to the deck or deck support frame via respective air bags configured to enable air to be expelled as the deck is tilted, thereby further lowering the deck towards the rearmost axle. Mullican teaches a suspension system wherein an end of the suspension is operatively connected to the deck or deck support (generally 36, etc.) frame via respective air bags (generally 46) configured to enable air to be expelled as the deck is tilted, thereby further lowering the deck towards the rearmost axle in order to assist in loading/unloading. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have tried modifying McIntyre by the general teaching of Mullican to have a suspension system wherein an end of the suspension is operatively connected to the deck or deck support frame via respective air bags configured to enable air to be expelled as the deck is tilted, thereby further lowering the deck towards the rearmost axle in order to achieve the predictable result of assisting in loading/unloading.

Re claims 14,23, McIntyre does not teach an opening or cover in the deck for the wheels to pass thru. Mullican teaches a suspension system wherein the deck includes a pair of apertures, shaped recesses or moveable covers (for suspension or wheels, see figures) which enable the wheels to extend above a lower part of the deck when the deck is tilted in order to reduce the tilt angle when loading/unloading. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

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have tried modifying McIntyre by the general teaching of Mullican to have a system wherein the deck includes a pair of apertures, shaped recesses or moveable covers which enable the wheels to extend above a lower part of the deck when the deck is tilted in order to reduce the tilt angle when loading/unloading.

Claims 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over McIntyre (US 4,318,658) in view of Cook (US 2,446,791).

Re claim 15, McIntyre teaches an engine (generally 28,16) supported by the chassis, a driveshaft (generally 30) to transmit motive power from the engine and which extends rearwardly from the engine, wherein the driveshaft includes a pivot (generally 34) to accommodate changes in angle between the driveshaft and connected items as the deck is tilted. McIntyre is understood to have a differential which is common in motor vehicles but does not explicitly mention it. Cook has a differential (generally 26) to transmit motion from the driveshaft to the wheels carried by the rearmost axle. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have tried modifying McIntyre by Cook to have a differential in order to achieve the predictable result of transmitting motion from the driveshaft to the wheels carried by the rearmost axle.

Allowable Subject Matter

Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Re claim 12, the prior art taken as a whole does not show nor suggest the limitations of this claim such as the front of the leaf spring and/or their spring connector extending through apertures in the deck when tilted (as claimed). The closest prior art, McIntyre, does not include as the front of the leaf spring and/or their spring connector extending through apertures in the deck when tilted (as claimed) as required by the claim and there is no motivation absent the applicant's own disclosure, to modify the McIntyre reference in keeping with the other limitations of the earlier connected claims in the claim dependency tree to also add the changes from Mullican or any other known reference in the manner required by the claims, as they are missing some other required elements and would seem incompatible if combined.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Scott Lowe whose telephone number is (571)272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571)272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Scott Lowe/

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Primary Examiner, Art Unit 3652